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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/894,297	06/28/2001	Joachim Sachs	52275-00005USPX	7602
7590	01/11/2005			
			EXAMINER	
			DAVIS, CYNTHIA L	
			ART UNIT	PAPER NUMBER
			2665	
DATE MAILED: 01/11/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/894,297	SACHS ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Cynthia L Davis	2665

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-15 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_ is/are allowed.  
 6) Claim(s) \_\_\_\_ is/are rejected.  
 7) Claim(s) 7-15 is/are objected to.  
 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 6/28/2001 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____ .  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/28/01</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____ .                                  |

**DETAILED ACTION**

***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Claim Objections***

2. Claims 7-15 are objected to under 37 CFR 1.75(c) as being in improper form because they depend from multiple dependent claim 6. See MPEP § 608.01(n). A multiple dependent claim may not depend from another multiple dependent claim. Accordingly, claims 7-15 have not been further treated on the merits.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

3. Claims 1-6 are rejected under 35 U.S.C. 102(e) as being anticipated by Pasternak.

Regarding claim 1, a layered protocol stack, wherein data packets are processed on an upper protocol layer and said processing is controlled according to at least one timer of the upper protocol layer, wherein the data packets are forwarded to a lower protocol layer for transmission, wherein said transmission is controlled by the lower protocol layer and the transmission is performed with variable channel access delays is

disclosed in Pasternak, figure 10 (showing a protocol layer stack where the transmission is done by the lowest layer, and other operations are done by higher layers). Detection of the start of a transmission by the lower protocol layer is disclosed in column 9, lines 23-30 (the end of the transmission of a cell may be equivalent in time to the start of transmission of another cell). Notification of the upper protocol layer by the lower protocol layer when a transmission is started, and synchronization of at least one timer of the upper protocol layer according to the notification is disclosed in column 9, lines 23-30 (there must be some sort of notification in order to know when to clear the clock, and since the clock is cleared, it is synchronized) and figure 10 (the transmission is done by the lowest layer; the synchronization timing is done at a higher layer).

Regarding claim 2, a method according to claim 1, wherein the timer models a round-trip time or a back-off time is disclosed in Pasternak, column 9, lines 28-30 (back-off time).

Regarding claim 3, a layered protocol stack, wherein data packets are processed on an upper protocol layer and are forwarded to a lower protocol layer controlling the transmission, wherein transmissions are performed with a channel access delay and wherein at least one of said layers performs a scheduling of data packets for the transmission is disclosed in Pasternak, figure 10 (showing a protocol layer stack where the transmission is done by the lowest layer, and other operations are done by higher layers). A scheduling of first data packets for transmission, channel access delay being detected on the lower layer, a check being performed whether additional data packets are ready for forwarding to the lower layer at or before the end of the channel access

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delay, a further scheduling of the first and additional data packets being performed, and the data packets being transmitted according to the further scheduling is disclosed in column 9, lines 23-30 (channel access delay is detected when the timer expires; the queue status indicates additional data packets, all packets are scheduled and transmitted).

Regarding claim 4, the scheduling being performed on the upper layer and a notification of the channel access delay by the lower layer initiates the further scheduling is disclosed in column 9, lines 23-30 (the upper layer does the scheduling; when delay is detected a slot is selected, which schedules transmission).

Regarding claim 5, a scheduling being performed on the lower layer is disclosed in column 9, lines 23-30 (the lowest layer participates in scheduling; it must cooperate with the higher level in the transmission step).

Regarding claim 6, a notification being sent at the start of a transmission or at the end of a delay is disclosed in column 9, lines 23-30 (the end of the transmission of a cell may be equivalent in time to the start of transmission of another cell).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cynthia L Davis whose telephone number is (571) 272-3117. The examiner can normally be reached on 8:30 to 6, Monday to Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on (571) 272-3155. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CLD  
12/20/2004

CD  
12/20/04



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